

REMARKS

This paper is submitted in response to the Office Action mailed October 26, 2008. A Request for a Three-Month Extension of Time under 37 CFR 1.136(a) is submitted herewith, along with the fee prescribed by 37 CFR 1.17(a)(3). The response to the Office Action is therefore timely, and reconsideration is respectfully requested.

Claims 1-3 and 28-51 were examined. All of the examined claims were rejected under both 35 USC §112, second paragraph, and 35 USC §103(a). In response, 1-3 and 28-51 have been cancelled and replaced by new 52-78. As explained below, it is respectfully submitted that claims 52-78 are allowable.

The Office Action raised a number of issues, which are addressed as follows:

1. Objections to the Specification: The specification has been amended as follows:

- (a) The cited Danish patent numbers have been corrected.
- (b) Section headings have been added.
- (c) The incorporation by reference on page 10, lines 10-20 has been amended so that the material incorporated by reference is incorporated from a US patent (i.e., US 6,322,044), which issued from the same International Application that was published as WO99/32840. The incorporation by reference is therefore proper, and no new matter has been added.

2. Objections to the Claims: Claims 1-3 and 28-51 have been cancelled and replaced by new claims 52-78, which have been drafted so as to overcome the objections stated in paragraphs 5-8 of the Office Action.

3. Rejections of the Claims under 35 USC §112: It is believed that new claims 52-78 have been written so as to overcome the rejections under Section 112 set forth in Paragraphs 9-25 of the Office Action.

4. Rejections of the Claims under 35 USC §103(a): All of the examined claims were rejected as unpatentable over Vangedal-Nielsen '044 in view of Vangedal-Nielsen '285 and Shing-Hsiung

‘891, with one or more additional references being applied to several of the dependent claims. It is respectfully submitted that new claims 52-78 define patentably over these references, for the reasons set forth below.

New independent claim 52 defines a pre-filled ice cube bag that contains a freezable material in a non-frozen condition. The claim not only recites the freezable material, it also defines the specific structure that contains the freezable material in individual ice cube compartments, while also defining the relationship between the freezable material and the bag structure that allows the freezable material to expand upon freezing without tearing the bag. While the Vangedal-Nielsen references disclose multi-compartment ice cube bags, there is no teaching in these references of structure that permits this expansion. This, for example, Vangedal-Nielsen ‘044 does not disclose a pre-filled bag, while Vangedal-Nielsen ‘285, in suggesting that the bag may be pre-filled (as pointed out by the Examiner), does not indicate how the bag should be constructed or filled to prevent tearing upon expansion of the contents.

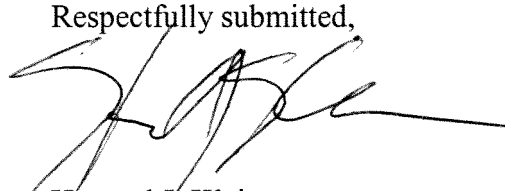
Shing-Hsiung does not teach or suggest any type of hermetically-sealed, pre-filled, multi-compartment structure, as defined in claim 52, nor does Shing-Hsiung teach or suggest a bag formed by the juncture of two foil layers with separate joints between the two layers, as also defined in claim 52. In fact, this reference teaches directly away from the structure defined in claim 52, requiring a single, seamless and jointless compartment “so as to provide an ice ball substantially without mark of join (*sic*) on its surface.” (Shing-Hsiung, p. 1, lines 35-37.) By contrast, the ice cubes formed in the bag of Applicant’s claimed invention would likely have marks formed by the separate joints defining the compartments. Furthermore, Shing-Hsiung teaches that the bag should be made of “stretchy” material (p. 1, line 31), which indicates that expansion of the contents would be accommodated (at least in part) by a similar expansion of the bag, as opposed to the fixed internal volume of the bag (once inflated) of claim 52. Accordingly, it is respectfully submitted that one of ordinary skill in the relevant arts, faced with the problem of accommodating the expansion of a liquid upon freezing when contained in a pre-filled, multi-compartment bag of the type shown, for example, in the Vangedal-Nielsen references, would not look to Shing-Hsiung for a solution.

It is therefore respectfully submitted that nothing in the references themselves teaches that they may be combined in the manner suggested by the Examiner, or that if they could be so combined, that the result would be a hermetically-sealed, pre-filled, multi-compartment bag with the specific structure defined in claim 52. It is therefore respectfully submitted that the invention as defined in claim 52 is patentable over the art of record, as are claims 53-74, which depend from claim 52.

New independent claim 75 and new dependent claims 76-78 present the subject matter of cancelled claims 31-34 in a more precise format. These claims include the subject matter of claim 52, which, as discussed above, is submitted to be patentable over the art of record. Accordingly, it is respectfully submitted that claims 75-78 are likewise patentable over the art of record, at least for reasons set forth above with respect to claim 52.

In summary, it is respectfully submitted that claims 52-78 define patentably over the art of record and should therefore be allowed. Passage of the application to issue is therefore earnestly solicited.

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Respectfully submitted,

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